

Analysis of the right of reference for wives in the perspective of gender justice and islamic law in Indonesia

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Article information	Abstract:
Submitted: 2024-10-03 Revised: 2025-06-02 Published: 2025-06-16	In the practice of reconciliation (rukuk), the wife's consent is often overlooked and interpreted differently across various Islamic schools of thought, while gender justice emphasizes equal rights for wives within marriage. The husband's right to reclaim his wife after a revocable divorce (talaq raj'i) is often seen as a form of male dominance. This study aims to examine whether Islamic law, particularly regarding rukuk, supports the principle of gender justice or tends to be biased toward men. Using a normative approach, the research analyzes classical and contemporary literature in fiqh and Indonesian legislation, such as Law No. 1 of 1974 and the Compilation of Islamic Law (KHI). The study employs a qualitative normative-juridical approach through literature research, analyzing primary Islamic texts and secondary Indonesian legal sources. Data were analyzed using content analysis to examine interpretations of the right of rukuk in divorce, assessing whether practices uphold gender justice, especially for marginalized wives. This research shows that the practice of reconciliation in Islamic law reflects a patriarchal structure, but contemporary interpretations based on the maqāṣid al-sharī'ah and gender justice encourage mutual consent. Reforms such as the Compilation of Islamic Law (KHI) affirm the rights of wives, marking a shift towards equality, justice, and respect for human dignity in modern Islamic marriage. This research contributes to the development of gender justice discourse in Islamic law by offering a reinterpretation of the practice of reconciliation based on the principles of maqāṣid al-sharī'ah. These findings enrich the study of Islamic family law and provide a basis for more just, inclusive, and gender-equality-based legal reform.
Keywords: Right of Reference, Justice, Gender, Islamic Law	



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INTRODUCTION

In the context of family law, gender justice is essential, as traditional norms often place wives in a subordinate position compared to husbands. According to Rufaida (2019) and Cohen et al., (2024), this imbalance is rooted in long-standing cultural and legal traditions that tend to favor male authority. The complexity increases within Islamic law, particularly regarding the husband's right of reference, which Salim and Wulandari (2023) describe as a normative prerogative granted to the husband during the iddah period. Based on QS. Al-Baqarah: 228, the Qur'an permits the husband to refer to his wife with the intention of reconciliation. However, Nely (2024) argues that in practice, this right is often exercised unilaterally, neglecting the wife's consent or psychological condition. In Indonesia, although regulated by Law No. 1 of 1974 and the Compilation of Islamic Law (KHI), Atmadianti & Rizal (2024) notes that the application of this right can lead to manipulation and power imbalances. Maulida & Busyro (2018) criticizes this for contradicting modern legal principles of equality in marital decision-making. Therefore, Al-As'ary (2016) proposes reinterpreting this concept using maqasid al-shariah to ensure justice and welfare for all parties, especially women.

The study of the right of reference in divorce has long been discussed in both classical and contemporary Islamic legal literature. In Islamic law, this right is normatively given to the husband if the wife is still in the iddah period after talaq raj'i, based on the Qur'an and supported by the fiqh of the four schools of thought which generally view this as the husband's prerogative. (Bariah & Ferianto, 2024). However, in the context of Islamic family law in Indonesia, this right is increasingly being re-evaluated through the lens of gender justice. Studies by Cullati et al., (2019) and Lwamba et al., (2022) indicate that the implementation of this right often leads to power imbalances, especially when the referral occurs without considering the wife's consent or psychological well-being. A qualitative study by Maula & Vivi (2022) also found that women often lack negotiating space in religious courts, even in cases involving domestic violence. Meanwhile, Law No. 1 of 1974 and the Compilation of Islamic Law (KHI) do not explicitly protect women's rights in this area (Maloko et al., 2024). Thus, a gender justice perspective is essential to review these normative concepts and support a more equitable application of Islamic law in Indonesia.

This article raises an important issue regarding the inequality of power relations in the institution of marriage, especially when talaq occurs. In the practice of Islamic law in Indonesia, the right of reference is normatively in the hands of the husband, while the position of the wife is often passive or even has no room to refuse a detrimental reference. The gender justice perspective demands that every individual in marriage has equal rights and protection, including in the context of post-talaq referral. Therefore, the analysis of the wife's right to refer is not only relevant from the classical fiqh aspect, but also urgent to be reviewed with the approach of maqāṣid al-sharī'ah which emphasizes justice, benefit, and protection of women. This article argues that the reinterpretation of the right of reference needs to be carried out in accordance with the principles of substantive justice in contemporary Islamic law and in line with the mandate of Law Number 7 of 1984 concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which has been ratified by Indonesia.

This study aims to analyze and understand the right of reference for post-divorce wives from the perspective of gender justice and Islamic law in Indonesia. The focus of this research is to examine how the concept of referencing, which has been more dominated by husbands, can be reconsidered in the framework of equal justice between men and women. This research also aims to examine positive legal provisions in Indonesia, both in the Compilation of Islamic Law (KHI) and in the practice of religious justice, as well as compare it with the values of justice in Islamic fiqh and contemporary discourse on gender equality. With a normative qualitative approach and juridical-philosophical analysis, this research is expected to be able to contribute constructive

thinking to the reformulation of the concept of reference that is not only in accordance with sharia principles but also upholds the values of justice and equality for women in family life.

This study provides a preliminary conclusion that the practice of the right of rujuk in divorce in Indonesia still tends to favor the husband, while the rights and protection of marginalized wives receive insufficient attention. This gap indicates the need for a reinterpretation of Islamic law regarding rujuk from a gender justice perspective, emphasizing equal rights, protection, and benefits for both parties. This reinterpretation aligns with the principles of *maqāṣid al-sharī'ah* as well as national legal mandates, including the ratification of CEDAW. The descriptive hypothesis of this study states that if the wife's right of rujuk is analyzed and implemented based on the principles of gender justice and *maqāṣid al-sharī'ah*, the practice of rujuk in Indonesia can reflect a more equitable balance between husband and wife, as well as enhance legal protection for wives in the context of divorce.

METODE

This research employs a qualitative approach with a normative-juridical method, focusing on library research as the main data source. According to George (2008), this method is suitable for analyzing legal principles based on texts and authoritative sources. Primary data includes classical and contemporary Islamic legal references, such as books from various schools of fiqh, Qur'anic exegesis, and hadiths concerning the right of reference in divorce, as highlighted by Ramadhita et al. (2023), who emphasize the importance of grounding such studies in authoritative Islamic texts. Secondary data comprises Indonesian legal instruments, including the Compilation of Islamic Law (KHI), Law No. 1 of 1974 on Marriage, and relevant Supreme Court decisions. Malayudha et al. (2023) argue that this approach is essential to understand both the theoretical framework and its practical implications in the context of gender justice. The data analysis is conducted using content analysis techniques, which Benuf & Azhar (2020) recommends for exploring the deeper normative meanings and evaluating whether the implementation of the right of reference upholds justice particularly in relation to the wife, who is often in a marginalized position during the process.

The type of research used in this study is literature research. According to Snyder (2019), literature research involves collecting data from books, notes, scholarly articles, and various written sources relevant to the research problem, by systematically analyzing each material. Luft et al., (2022) emphasize that one of the main characteristics of this method is that researchers engage directly with written materials, rather than gathering data from the field. Supporting this, Sutton and Austin (2015) explain that data in literature research is accessed by the researcher through libraries or digital platforms, allowing direct engagement with the content. Cheong et al. (2023) also note that literature research relies on secondary sources, meaning the data used is obtained indirectly and not generated through firsthand investigation. Furthermore, Sari (2021) highlights that literature data is not limited by time or location and remains stable over time, providing consistent reference material for legal and academic analysis.

The data sources in this research consist of primary and secondary data. Yotenka et al. (2022) state that primary data refers to authentic and credible sources, such as saheeh Islamic texts whose validity is widely recognized, including hadith collections and classical fiqh books. On the other hand, secondary data comprises information obtained from materials that have been previously analyzed or interpreted by other researchers. According to Wickham (2019), this includes academic books, scholarly articles, literature reviews, and various reports that provide contextual understanding. Afian & Saputra (2021) adds that secondary sources also encompass legislation, encyclopedias, online media, and even social media platforms, particularly when they discuss issues such as gender justice and the right of reference within the framework of Islamic law. These diverse sources support a comprehensive analysis of how gender justice is perceived

and practiced in relation to the concept of reference in both normative and contemporary settings.

The data analysis method in this research involves several systematic steps. Lee et al. (2024) explain that the initial stage includes identifying and collecting relevant sources in the form of books and literature related to the concept of reference. Once the sources are gathered, Elo et al. (2014) emphasize the importance of organizing and analyzing the data consistently and methodically. Sindin (2017) asserts that researchers must thoroughly read and comprehend the entire content to identify discussions that align with the research problem. Building on this, Kraus et al. (2021) highlight that researchers should compare literature on the right of reference from both classical and contemporary jurisprudence to detect patterns and shifts in interpretation. Abdullah (2023) points out that this process requires the researcher to interpret the views of scholars, the Compilation of Islamic Law, and various legal perspectives while also integrating their own critical insights. Therefore, mastering and synthesizing all available descriptions is essential to produce a comprehensive and balanced analysis.

RESULTS AND DISCUSSION

Results

Recognition of women's reconciliation rights in islamic family law

Research conducted by Aziz and Fahrudin (2021) examines the discourse of gender justice in the context of women's reconciliation rights in Islamic family law. This study provides a new perspective on male dominance in the practice of reconciliation, by highlighting women's rights that have so far received little attention in the framework of traditional Islamic law. Through a gender approach, this study reveals that women not only have the right to be treated well in the reconciliation process, but also have the right to express their opinions and even propose reconciliation under certain conditions. These findings challenge the old paradigm and demonstrate the dynamics of Islamic law that is responsive to gender justice issues.

Table 1
Gender Justice in Islam

No	Aspects Studied	Key Findings	Description
1	Women's Reconciliation Rights in Islamic Family Law	Women have rights in reconciliation, including the right to express opinions on reconciliation proposed by their husbands.	This shows a shift in the discourse of gender justice in Islamic law.
2	Husband's Obligations in the Reconciliation Process	A husband who wants to reconcile his wife is required to behave well and treat her fairly.	This requirement is a major concern for scholars as a form of justice in husband-wife relations.
3	Gender Perspective on the Right to Refer	From a gender perspective, a wife can also propose reconciliation as part of fulfilling her rights in marriage.	This shifts the traditional view that the right to reconciliation is only held by the husband.
4	The Concept of Khulu' and Its Implications	The concept of khulu' provides an opportunity for a wife to have the right to reconcile with a husband who refuses.	Khulu' is a legal solution that balances rights and obligations in divorce.
5	Gender Justice in Islamic Family Law	The emphasis on gender justice in Islamic family law aims to create an equal and respectful relationship between husband and wife.	This strengthens the argument that Islamic law is dynamic and can be interpreted according to the context of justice.

Based on the results of the analysis, it can be concluded that the discourse of gender justice in Islamic family law is increasingly moving towards the recognition of women's rights, including in terms of reconciliation. This study confirms that women have an equal position in the

reconciliation process, both through the right to be treated fairly and to convey their attitudes towards their husband's decisions. The concept of khulu' strengthens women's rights to respond to injustice in marital relations, including the right to reject or propose reconciliation. Thus, gender justice in Islamic law is not only a normative ideal, but can be actualized through a reinterpretation of legal texts that favor equality and humanity.

The wife's right to refuse reconciliation from a gender and justice perspective

Research conducted by Rufaida (2019) shows significant developments in the construction of Islamic family law, especially regarding the wife's right to refuse reconciliation. This study compares the classical patriarchal view of Islamic jurisprudence with the modern legal approach through the Compilation of Islamic Law (KHI). If in classical jurisprudence the right to reconciliation is considered entirely the husband's without requiring the wife's consent, then the KHI brings a paradigm shift that places women as legal subjects who have autonomy in determining the continuation of the marriage relationship. This finding is important in building a discourse on gender equality in contemporary Islamic law.

Table 2

The Wife's Rights to Refuse Reconciliation from an Islamic Perspective and Gender Analysis

No	Aspects Studied	Findings	Description
1	The Position of the Wife's Rights to Refuse Reconciliation Before the KHI	Before the presence of the KHI, wives did not have the right to refuse reconciliation because the law used was still based on classical patriarchal fiqh.	The right to reconcile is considered to be the absolute property of the husband, regardless of the wife's consent during the iddah period.
2	Traditional Ulama's Views on Reconciliation	Previous scholars argued that reconciliation was the absolute right of the husband without needing to consider the wife's consent.	This shows male dominance in the structure of classical Islamic family law.
3	Legal Reconstruction in the KHI	The KHI states that reconciliation must be accompanied by the wife's consent. If the wife refuses, then reconciliation can be considered invalid.	It is an important point in the recognition of women's rights in Islamic family law in Indonesia.
4	Implications of Modern Thought on Family Law	The KHI is influenced by the thinking of modern society which emphasizes gender equality and justice in husband-wife relations.	It shows the dynamics of Islamic law that are adaptive to social developments and values of equality.
5	Gender Perspective on Reconciliation Rejection by the Wife	The gender perspective supports the wife's right to refuse reconciliation as a form of protection for the will and dignity of women in the household.	The rejection of reconciliation is a symbol of resistance to unilateral domination by men.

Based on the study's results, it can be concluded that the reconstruction of law in the Compilation of Islamic Law (KHI) represents a progressive step in addressing gender inequality inherited from classical fiqh. Recognizing the wife's consent as a valid condition for reconciliation legally affirms women's rights and agency within marriage. This normative shift aligns with the principles of gender justice by granting wives greater participation and protection in post-divorce reconciliation. However, significant challenges remain in the practical application of this norm, as societal attitudes are still strongly influenced by patriarchal traditions and cultural norms that limit women's agency. Therefore, while the KHI normatively supports gender justice, achieving its full impact requires ongoing socialization, legal education, and reinterpretation of religious texts. Such efforts are essential to ensure that the wife's right to refuse reconciliation is accepted, respected, and effectively implemented in broader socio-religious practices.

Discussion

Basic concept of the right of reference in Islamic law

The practice of the right of reference (rujuk) in Islamic law in Indonesia still reflects a tendency toward male dominance, where the husband may unilaterally reclaim his wife during the iddah period without her consent even when such an act causes psychological or social harm to the wife. Campbell (2005) points out that such unilateral authority reinforces patriarchal structures that disadvantage women in marital relationships. Similarly, Carback (2016) criticizes legal pluralism that tolerates practices conflicting with gender equality, emphasizing that religious norms should not override fundamental human rights. From the perspective of gender justice, as discussed by Guterres et al., (2024), this practice illustrates a significant power imbalance that contradicts the principle of equality in dignity and rights between men and women. Halim and Amalia (2024) further assert that when the right of reference is exercised without the wife's participation, it legitimizes structural injustices and deprives women of agency. In response, Chappell et al., (2024) advocate for a reinterpretation of classical fiqh through the maqāsid al-syarī'ah lens and urge revisions to national instruments like the Compilation of Islamic Law (KHI) to ensure alignment with universal principles of gender equality and human rights.

To strengthen the implementation of Islamic law in Indonesia, particularly regarding the wife's right in matters of reference, it is essential to integrate maqāsid al-sharī'ah with gender justice. Farkhani et al. (2022) argue that maqāsid al-sharī'ah, which emphasizes the protection of religion, life, intellect, lineage, and property, should guide legal practice by considering moral and social objectives, not merely textual interpretation. In the context of referencing, Mera et al. (2024) note that current practices often reinforce male dominance and overlook the wife's agency and well-being. From a maqāsid perspective, Morgenroth and Ryan (2020) suggest that referencing should be reinterpreted to promote mutual benefit and fairness within marriage. Gender justice, according to Weldon (2018), ensures that the right of reference respects both partners' dignity and autonomy rather than functioning as a tool of control. Integrating these principles provides a balanced, equitable foundation for Islamic family law that aligns with contemporary realities and universal human values.

Table 3
The Right to Refer in Islamic Law and Gender Perspective

Aspects	Summary	Reference
Definition of Right to Reconciliation	The husband's right to return to his wife after a raj'i divorce during the iddah, without a new contract.	Umam (2022); Timur (2024)
Gender Perspective	The husband's absolute right to reconciliation shows the inequality of the relationship; the wife is not involved in the decision.	Rufaida (2019)
Legal Basis	QS. Al-Baqarah: 228 mentions the right to reconciliation for the husband if he intends to reconcile; reinforced by the hadith and practices of the Prophet Muhammad SAW.	Thoyib & Huda (2022); Aisya (2024)
Requirements for Reconciliation	- Only for raj'i divorce (1 or 2) - Performed during the iddah - Intending to improve the relationship - Without a new contract	Azzulfa (2022); Jazari (2019); Kurniawan (2021); Abdullah & Ulfa (2019)
Form of Reconciliation	Can be done verbally ("I reconcile") or through actions such as husband-wife relations.	Syaf (2024)
Exclusive Rights of Husband	In classical fiqh, the husband does not need the wife's consent to reconcile during the iddah; however, the value of justice must still be considered.	Suryantoro & Rofiq (2022)
Ulama's Advice on Witnesses	Some scholars (Shafi'i and Maliki) suggest that reconciliation be witnessed by a third party; Hanafi does not require it.	Makmun & Rohman (2017)
Limitations on Right to	- Iddah has been completed - Talak bain kubra (talak 3) - Talak through khuluk (divorce at the wife's request)	Rufaida (2019)

The table summarizing the concept of the right of rujuk (reconciliation after divorce) in Islamic law reveals a tension between classical fiqh traditions and the demands of modern societal values, particularly regarding gender equality. In classical fiqh, the right of rujuk is understood as the exclusive right of the husband, which may be exercised unilaterally during the iddah (waiting) period, without requiring the wife's consent. This concept is strongly supported by theological foundations found in the Qur'an and Hadith, and has been codified in the opinions of prominent jurists such as Imam Shafi'i, Hanafi, Maliki, and Hanbali. However, from the perspective of substantive justice and gender equality, this approach raises several critical issues. As articulated by Mansour Fakihi, male dominance in household decision-making without women's participation constitutes a form of structural injustice (subordination). A husband's right to reconcile without his wife's consent disregards her agency as an equal partner in marriage, and implicitly reinforces patriarchal dynamics that position women as objects rather than subjects of the law.

Furthermore, although the requirements for rujuk such as the intention of reconciliation (islāh), the timeframe within the iddah period, and the type of divorce have been clearly defined, Sulton (2023) argues that the element of "good intention" remains subjective and prone to manipulation. In practice, this makes it difficult for courts to verify intentions objectively. Abubakar et al. (2023) further note that the absence of a mechanism to assess the husband's sincerity can allow the rujuk right to be misused as a tool of control over the wife. From the perspective of contemporary Islamic legal development, Mun'im and Suaidi (2024) observe that the Compilation of Islamic Law (KHI) in Indonesia shows evolving interpretations that increasingly consider women's voices. For example, Mufti (2016) highlights that modern interpretations and some religious court rulings recognize the necessity of the wife's consent for valid rujuk, aiming to ensure mutual benefit and prevent prolonged conflict. These perspectives collectively indicate a move toward aligning rujuk practices with the maqāṣid al-sharī'ah, emphasizing the protection of life, dignity, and family harmony.

Thus, Fattah (2019) argues that critique of the traditional doctrine of rujuk is not merely deconstructive but should aim to reconstruct a more just, humane, and contextually relevant understanding of Islamic law. In line with this, Grossbard-Shechtman and Lemennicier (1999) contend that the right of rujuk should not be treated as an absolute privilege of the husband, but rather as a mutual agreement grounded in the will of both parties and oriented toward shared benefit. Furthermore, Langaji et al. (2024) emphasize that reforming Islamic law concerning rujuk requires a hermeneutical approach integrating gender justice and maqāṣid al-syarī'ah, serving as a contextual and transformative method of ijtihad. Together, these perspectives suggest that contemporary interpretations of rujuk should prioritize equity, mutual consent, and the broader social and moral objectives of Islamic law, addressing the imbalance historically observed in practice.

Islamic law and gender justice: Rethinking the rights of men and women in marriage

Gender justice remains a prominent issue globally, including in Muslim-majority countries, where Cameron (2023) observes ongoing debates about the nature of power relations between men and women. Patoari (2019) further highlights that discussions often focus on whether Islam inherently recognizes gender equality in both private and public spheres. To critically understand gender justice within Islamic contexts, Anggoro (2019) emphasizes the importance of examining foundational Islamic teachings the Qur'an, Hadith, and fiqh while also analyzing how these texts are interpreted and applied in contemporary Muslim societies. Together, these perspectives suggest that interpretations of Islamic law and practice can either reinforce traditional gender

hierarchies or be re-envisioned to promote equitable treatment and rights for both men and women, aligning normative principles with contemporary demands for justice.

Islam, as a religion of *rahmatan lil alamin* (mercy for all creation), emphasizes the value of justice (*'adl*) in all aspects of life, including the relationships between men and women. Shin and Park (2023) argue that justice in Islam encompasses both *hablum minallah* (relationship with Allah) and *hablum minannas* (relationship with others), highlighting that equitable treatment is a core moral principle. Negara (2022) notes that the Qur'an affirms men and women as equal before Allah, sharing the same responsibilities as caliphs on earth, which provides a normative basis for gender justice in Islamic law. Agustina et al. (2023) interpret QS. Al-Hujurat:13 as reinforcing that human worth is measured by piety rather than gender, race, or social status, emphasizing egalitarian principles. Collectively, these perspectives indicate that Islamic justice provides a framework for promoting equal rights and dignified life for all individuals, which can inform contemporary reinterpretations of marital and family law to address gender imbalances.

In Islam, gender justice is based on the principle that men and women are equal before Allah while having complementary rights and obligations. Qodir et al. (2022) argue that this provides a normative foundation for fairness, though absolute equality is not always applied. Glázer-Kniesz and Makay (2024) note that justice often reflects differentiated roles according to gender responsibilities. In marriage, Mehmood (2016) observes that men hold the right to *talaq*, while women may seek *khulu'*. Wimpelmann and Saadat (2024) critically highlight that men's *talaq* often dominates in practice, while women face more complex legal processes. Hermanto (2022) further notes that husbands retain the right of *rujuk* after *talaq raj'i* without the wife's consent. These analyses suggest that, despite normative balance, practical application reinforces male dominance, emphasizing the need for reinterpretation of Islamic law that integrates gender justice and protects women's agency.

On the other hand, Fadil et al. (2024) highlight that the Qur'an emphasizes the protection of women in marriage and divorce, such as granting them the right to dowry as financial security and alimony during the *iddah* period. Saraswati (2019) interprets these provisions as evidence that, although men's and women's rights in marriage differ, Islam establishes rules to safeguard women from harm during divorce. Hidayah and Komariah (2024) further argue that the principle of justice in Islam aims to balance the rights of husband and wife, including in matters of *talaq* and *rujuk*. However, Townsend et al. (2024) critically observe that the husband's role as the holder of the right of *rujuk* is often perceived differently when assessed through the lens of modern gender justice, revealing tensions between normative Islamic law and contemporary expectations of equality in marital relations.

Right of reference in the perspective of gender justice

In traditional Islamic law, the husband's unilateral right to perform *rujuk* without the wife's consent has been widely interpreted as a manifestation of male dominance within marriage. Rohmah et al. (2025) argue that this legal structure reflects patriarchal norms that prioritize the husband's authority, particularly during the *iddah* period, often sidelining the wife's perspective and agency. In contrast, Muhibbulloh et al. (2021) suggest that the provision was intended to protect the institution of marriage and facilitate reconciliation after divorce. However, contemporary gender justice advocates, such as Pomahiya et al. (2022), critique this practice for perpetuating decision-making imbalances, leaving wives unable to assert their will regarding marital continuity. Al-Amin et al. (2024) further emphasize that granting husbands exclusive *rujuk* rights undermines gender equality by denying women an equal voice in shaping one of the most personal and impactful aspects of their lives their marital future. These perspectives indicate the need for reinterpretation of *rujuk* that harmonizes Islamic law with principles of gender justice.

On the other hand, some contemporary scholars, such as Cid and Leguisamo (2022), argue that Islamic law provides protections for women in marriage through mechanisms like dowry (mahr), alimony (nafaqah), and talaq provisions. Alsemgeest and Grobbelaar (2015) interpret these elements as financial safeguards and fundamental rights that secure the wife's position within the marital framework. However, Smith and Sinkford (2022) critically note that, from a gender justice perspective, these formal rights do not fully address the imbalance of power in marriage, particularly regarding the right of rujuk, which is often exercised unilaterally by the husband. Together, these perspectives indicate that while Islamic law normatively offers protections for women, in practice, the exercise of certain rights especially rujuk can reinforce male dominance, highlighting the need for reinterpretation that aligns legal provisions with contemporary principles of gender equity and justice in marital relations.

In many modern legal systems that uphold gender equality, divorce and reconciliation must go through a legal process that considers the interests of both parties fairly. Hermanto & Sovia (2023) points out that the practice of rujuk in Islamic law, which does not require the wife's consent, may contradict legal principles that promote equal participation in marital decisions. Nonetheless, efforts have emerged in several Muslim-majority countries to align the right of rujuk with contemporary principles of gender justice. Cislighi and Heise (2020) observe that in some contexts, women are allowed to stipulate in the marriage contract that rujuk cannot occur without their consent. Tchoukou (2024) further notes that some legal systems have even granted rujuk rights to both spouses equally. This demonstrates that Islamic law has the capacity to evolve in line with growing demands for gender justice in modern society.

Balancing rights: Gender justice in islamic marriage

Islam views marriage as a sacred bond and a major responsibility extending beyond this world. Sugiarto (2022) interprets that a husband assumes responsibilities once held by the wife's father, and marital discord should ideally be resolved to preserve the household. The Qur'an, in Surah Al-Baqarah verse 228, encourages reconciliation through rujuk, granting decision-making authority to the husband. However, Gander et al. (2024) argue that a wife has the right to refuse rujuk if it does not benefit the marital relationship. Al-Maraghi interprets that rujuk initiated with bad intentions merely to prevent the wife from remarrying is morally impermissible. Santalla-Banderalli and Malavé (2022) further emphasize that Surah Al-Baqarah verse 231 condemns repeated divorce and rujuk as manipulative, highlighting ethical and justice-oriented limits on the husband's authority. These analyses suggest that Islamic law supports reconciliation while protecting women's rights and promoting fairness in marital decision-making.

According to Khulqi et al. (2023), the consensus among Islamic schools of thought (madzhabs) maintains that the right of rujuk belongs exclusively to the husband, while the wife does not hold an equivalent right. They interpret this as a normative legal structure rather than an expression of inequality. Zhou et al. (2017) provide an analytical perspective, arguing that this arrangement reflects the complementary roles of husband and wife according to their respective responsibilities. Similarly, Lundberg et al. (2016) contend that rules regarding iddah and the husband's dominant rights are not intended to discriminate against the wife but to ensure protection and recognition of all parties' rights. Mubarak et al. (2021) further interpret these provisions comparatively, noting that they are connected to the broader objectives of fairness and justice in Islamic family law, suggesting that contemporary reinterpretations could balance normative principles with modern perspectives on gender equity.

Mugni (2024) explains that a hadith narrated by At-Tirmidhi and Al-Hakim from Aisha r.a. shows the early practice of husbands repeatedly divorcing and referring to their wives, which Islam later limited through regulations on talaq raj'i. Crabtree and Harris (2020) note that scholars

differ on a wife's status if she remarries after receiving only a divorce notification without a clear act of rujuk. Dymala et al. (2024) interpret that Imam Malik, Al-Auza'i, and Al-Laits grant the woman fully to the new husband, regardless of consummation. In contrast, Imam Shafi'i, Abu Hanifah, and Kufa scholars argue that the first husband retains a stronger claim. Güney (2024) further emphasizes Imam Hanbali's view that rujuk is valid only with intercourse, not mere touching or kissing. These perspectives illustrate the diversity of interpretation in Islamic jurisprudence and underscore the need to contextualize rujuk practices in line with contemporary gender justice principles.

Scott et al. (2013) interpret that, according to the Compilation of Islamic Law (KHI), a husband wishing to perform rujuk must obtain the consent of his ex-wife, as outlined in Article 167 paragraph (2), which states that "reconciliation is carried out with the wife's consent in the presence of the Marriage Registrar or the Assistant Marriage Registrar." Albert et al. (2019) further analyze that if the husband insists on reconciliation while the wife refuses, the rujuk is deemed invalid based on Religious Court decisions. Suryantoro and Rofiq (2022) interpret Articles 164 and 165 of the KHI, emphasizing that a wife who objects to her husband's request has the right to formally register her refusal before the Marriage Registrar with two witnesses. Santoso et al. (2023) highlight that the wife's objection can significantly influence the Religious Court's ruling on the validity of rujuk. These perspectives collectively indicate a shift in contemporary Islamic law toward recognizing the wife's agency in marital reconciliation.

An important aspect highlighted by several provisions indicates a shift from classical jurisprudence to an Indonesia-based fiqh, as Adegoke (2021) interprets, reflecting a more structured approach to documentation and administration. In this context, parties wishing to perform rujuk must involve a governmental authority, namely the Marriage Registrar, contrasting with Imam Shafi'i's perspective, which Ekawati and Claramita (2021) explain allowed rujuk through verbal cues or even sarcasm. Boer (2024) interprets Imam Malik's view as requiring tangible actions, such as physical intimacy with the intention of reconciliation, a stance supported by Imam Hanbali and Abu Hanifah. Zakaria and Abouahmed (2023) argue that the Compilation of Islamic Law (KHI) prioritizes the wife's rights, dignity, and security, especially when the husband's intentions are unclear or insincere. Douglas (2023) further emphasizes that KHI promotes gender justice by ensuring mutual consent and balancing rights between husband and wife in rujuk.

CONCLUSION

The study reveals that the practice of rujuk (the husband's right to reconcile with his wife during iddah) in Islamic law reflects a patriarchal structure that prioritizes male authority. Classical fiqh grants husbands unilateral rights without requiring the wife's consent, often disregarding women's agency and well-being. However, contemporary interpretations, supported by the principles of maqāṣid al-sharī'ah and gender justice, advocate for mutual consent and fairness in reconciliation. Legal reforms such as the Compilation of Islamic Law (KHI) in Indonesia increasingly recognize the wife's right to accept or refuse rujuk, marking a shift toward equality and accountability. This evolution demonstrates a movement from textual rigidity toward contextual, justice-oriented interpretations of Islamic law. Overall, the findings emphasize that integrating gender justice with maqāṣid al-sharī'ah provides a balanced framework that upholds both religious values and human dignity in modern Islamic marital practices.

Theoretically, these findings enrich Islamic legal studies by demonstrating that reconciliation can be interpreted more contextually through the maqāṣid al-sharī'ah (objectives of sharia) and gender justice approaches. This broadens the classical Islamic jurisprudence discourse, which has historically been patriarchal, toward a more egalitarian and just paradigm. Practically, the findings of this study can serve as a reference for policymakers, religious court judges, and religious

institutions in upholding the principle of justice in reconciliation practices. Implementing policies requiring the wife's consent in the reconciliation process will strengthen legal protection for women and encourage more equal, harmonious marital relations in accordance with the humanitarian values of modern Islamic law.

This study is limited by its analytical scope, which emphasizes normative-theological studies, and therefore does not fully describe the practice of reconciliation in various Muslim social and cultural contexts. Furthermore, data sources are limited to classical and contemporary Islamic legal literature, without including empirical data from religious court decisions or interviews with legal practitioners. Therefore, further research is recommended to combine a juridical-sociological approach to gain a more comprehensive understanding of the implementation of gender justice in reconciliation practices. Comparative studies across Muslim countries are also important to examine variations in the application of reconciliation laws and how social context influences their interpretation and implementation within the framework of Islamic justice.

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